

**IOWA DEPARTMENT OF NATURAL RESOURCES
ADMINISTRATIVE CONSENT ORDER**

IN THE MATTER OF: Larry Holtkamp Wright County, Iowa	ADMINISTRATIVE CONSENT ORDER NO. 2015-AQ-03 NO. 2015-SW-03
--	--

TO: Larry Holtkamp
3084 Youngblood Avenue
Dows, Iowa 50071-7556

I. SUMMARY

This administrative consent order is entered into between the Iowa Department of Natural Resources (DNR) and for the purpose of resolving solid waste and air quality violations. In the interest of avoiding litigation, the parties have agreed to the provisions below.

Any questions regarding this administrative consent order should be directed to:

Relating to technical requirements:
Adam Shaffer
Iowa Department of Natural Resources
Field Office No. 2
2300 15th Street S.W.
Mason City, Iowa 50401
Phone: 641-424-4073

Relating to legal requirements:
Anne Preziosi, Attorney for the DNR
Iowa Department of Natural Resources
7900 Hickman Road, Suite 1
Urbandale, Iowa 50322
Phone: 515-725-9551

Payment of penalty to:
Director of the Iowa DNR
Wallace State Office Building
502 East Ninth Street
Des Moines, Iowa 50319-0034

II. JURISDICTION

This administrative consent order is issued pursuant to the provisions of Iowa Code chapter 455B, Division IV, Part 1 (solid waste), and the rules adopted pursuant to that part; Iowa Code sections 455B.134(9) and 455B.138(1), which authorize the Director to issue any order necessary to secure compliance with or prevent a violation of Iowa Code chapter 455B, Division II (air quality), and the

IOWA DEPARTMENT OF NATURAL RESOURCES
ADMINISTRATIVE CONSENT ORDER
ISSUED TO: Larry Holtkamp, Wright County, Iowa

rules promulgated or permits issued pursuant to that part; and Iowa Code section 455B.109 and 567 Iowa Administrative Code (IAC) chapter 10, which authorize the Director to assess administrative penalties.

III. STATEMENT OF FACTS

1. On June 11, 2014, an Iowa State Patrol Officer observed an open burn from Interstate I-35. The officer located the burn site on property located at Wright Avenue and Yankee Avenue in Wright County, Iowa. The local address of the site is 3157 Wright Avenue, in Alden, Wright County, Iowa. The site is owned by Larry Holtkamp.

2. The fire was contained in a hole on the east side of a Quonset hut. The hole contained burning tires and other solid waste materials. The officer took photographs at the site to document the incident.

3. DNR received information regarding the incident from the Iowa State Patrol on June 18, 2014. DNR Field Office No. 2 sent a June 30, 2014, Notice of Violation letter to Larry Holtkamp, citing illegal open burning and improper disposal of solid waste.

4. A similar open burning incident occurred at the site in 2005. On May 10, 2005, DNR received an anonymous complaint of open burning at the site. A DNR field officer visited the site on May 12, 2005, and observed a large hole containing metal waste, and a large pile of metal waste that had been burned. Photographs were taken at the site. There also was evidence that tires had been burned. A May 23, 2005, Notice of Violation letter was sent to Larry Holtkamp, citing illegal open burning and improper disposal of solid waste.

5. DNR estimates that at least 20 tires have been burned at the site over a period of years. The average cost of tire disposal is \$6.00 per tire, and the estimated cost of labor and expense for loading and hauling on at least two separate occasions is approximately \$130.00.

IV. CONCLUSIONS OF LAW

1. Iowa Code section 455B.133 provides that the Environmental Protection Commission (Commission) shall establish rules governing the quality of air and emission standards. The Commission has adopted 567 IAC chapters 20-35 relating to air quality.

2. 567 IAC 23.2(1) prohibits any person from allowing, causing, or permitting open burning of combustible materials, except as provided in 23.2(2) (variances) and 23.2(3) (exemptions). The burning of demolition waste is

IOWA DEPARTMENT OF NATURAL RESOURCES
ADMINISTRATIVE CONSENT ORDER
ISSUED TO: Larry Holtkamp, Wright County, Iowa

specifically prohibited. The illegal open burning of solid waste in this case demonstrates a violation of this provision.

3. Iowa Code section 455B.304 provides that the Commission shall establish rules governing the handling and disposal of solid waste. The Commission has adopted 567 IAC chapters 100-123.

4. Iowa Code section 455B.307 and 567 IAC 100.4 prohibit a private or public agency from dumping or depositing or allowing the dumping or depositing of any solid waste at any place other than a sanitary disposal project approved by the Director. The illegal open dumping of solid waste in this case demonstrates non-compliance with this provision.

V. ORDER

THEREFORE, DNR orders and Larry Holtkamp agrees to do the following:

1. Larry Holtkamp shall pay a penalty of \$2,500.00 within 30 days of the date this order is signed by the Director;

2. Larry Holtkamp, shall cease all illegal solid waste disposal activity and all illegal open burning of combustible materials at any location in the State of Iowa, and shall comply in the future with the regulations concerning disposal of solid waste and open burning; and

3. Within 30 days of the date of this administrative consent order, Larry Holtkamp shall properly dispose of all ashes and residue from burning at the site by taking those materials to the Wright County Transfer Station; and he shall provide disposal receipts to DNR Field Office No. 2.

VI. PENALTY

Iowa Code section 455B.146 authorizes the assessment of civil penalties of up to \$10,000.00 per day of violation for the air quality violations involved in this matter. More serious criminal sanctions are also available pursuant to Iowa Code section 455B.146A. Iowa Code section 455B.307(3) authorizes the assessment of civil penalties of up to \$5,000.00 per day of violation for the type of solid waste disposal violations involved in this matter.

Iowa Code section 455B.109 authorizes the Commission to establish by rule a schedule of civil penalties up to \$10,000.00 that may be assessed administratively. The Commission has adopted this schedule with procedures and criteria for assessment of penalties through 567 IAC chapter 10. Pursuant to this

IOWA DEPARTMENT OF NATURAL RESOURCES
ADMINISTRATIVE CONSENT ORDER
ISSUED TO: Larry Holtkamp, Wright County, Iowa

rule, DNR has determined that the most effective and efficient means of addressing the above-cited violations is the issuance of an administrative consent order with a \$2,500.00 penalty. The administrative penalty assessed by this order is determined as follows:

Economic Benefit – Larry Holtkamp received economic benefit from illegal open dumping and open burning at the site. DNR estimates that at least 20 tires have been burned at the site over a period of years. The average cost of tire disposal at a sanitary landfill is \$6.00 per tire, and the estimated cost of labor and expense for loading and hauling on at least two separate occasions is approximately \$130.00. Therefore, DNR estimates that at least \$250.00 in economic benefit accrued, and for that reason \$250.00 is assessed for economic benefit.

Gravity of the Violation – The open burning of solid waste can release toxins that pollute the air, may pollute groundwater, and pose a risk to human health and the environment. Illegal open dumping and illegal open burning threaten the integrity of DNR's environmental programs and efforts to protect the state's valuable natural resources, including groundwater. The open burning of tires is specifically prohibited. Therefore, \$1,000.00 is assessed for the gravity of the violations.

Culpability – Larry Holtkamp has conducted the open dumping and open burning of prohibited wastes, including tires, on at least two occasions. Further, Larry Holtkamp is responsible to be knowledgeable of the DNR's requirements, and to be alert to the probability that his conduct is subject to DNR's rules. For the above reasons \$500.00 is assessed for culpability.

Aggravating Factor – In 2005, Larry Holtkamp was notified by DNR Field Office No. 2 that illegal open dumping and open burning of solid waste, including tires, was prohibited. The 2005 incident is similar to the 2014 incident. For this reason, \$750.00 is assessed for this factor.

VII. WAIVER OF APPEAL RIGHTS

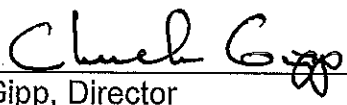
This administrative consent order is entered into knowingly and with the consent of Larry Holtkamp. For that reason, Larry Holtkamp waives his right to appeal this order or any part thereof.

VIII. NONCOMPLIANCE

Failure to comply with this administrative consent order, including failure to timely pay any penalty, may result in the imposition of further administrative penalties or referral to the attorney general to obtain injunctive relief and civil

IOWA DEPARTMENT OF NATURAL RESOURCES
ADMINISTRATIVE CONSENT ORDER
ISSUED TO: Larry Holtkamp, Wright County, Iowa

penalties pursuant to Iowa Code sections 455B.146 and 455B.307. Compliance with Section "V. Order" of this administrative consent order constitutes full satisfaction of all requirements pertaining to the specific violations described in Section "IV. Conclusions of Law" of this administrative consent order.



Chuck Gipp, Director
Iowa Department of Natural Resources

Dated this 16th day of
March, 2015.



Larry Holtkamp

Dated this 20 day of
_____, 2016

DNR Field Office 2; Anne Preziosi; VII.C.2